

1 Jeffrey I. Hasson Honorable Marsha J. Pechman  
2 Attorney at Law  
3 12707 NE Halsey St.  
4 Portland, OR 97230  
5 Phone: (503) 255-5352  
6 Facsimile: (503) 255-6124  
7 E-Mail: hasson@dhlaw.biz  
8 Washington State Bar No. 23741  
9 Attorney for Seattle Service Bureau, Inc.

10 UNITED STATES DISTRICT COURT  
11 FOR THE WESTERN DISTRICT OF WASHINGTON  
12 AT SEATTLE

13 SANDRA C. THORNELL, <i>et al.</i> , 14 Plaintiffs, 15 vs. 16 SEATTLE SERV. BUREAU, INC. d/b/a NATIONAL SERV. BUREAU, INC., <i>et al.</i> , 17 Defendants.	Case No.: 2:14-CV-01601-MJP SEATTLE SERVICE BUREAU, INC.'S JOINDER IN STATE FARM'S MOTION TO DISMISS AND MOTION TO STRIKE NOTE ON THE MOTION CALENDAR: November 14, 2014 [Oral Argument Requested]
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18 Pursuant to *FRCP 12(b) (6)* and *FRCP 12 (f)*, defendant Seattle Service Bureau, Inc.  
19 (SSB), by and through its attorney, Jeffrey I. Hasson, joins defendant State Farm Mutual  
20 Automobile Company's ("State Farm") Motion to Dismiss and Motion to Strike [ECF No. 9] and  
21 moves the court to dismiss this case for the reason that Plaintiffs have failed to state a claim upon  
22 which relief can be granted against SSB and because the class allegations of the Complaint  
23 should be stricken.

24 The motion is based on the Plaintiffs' Complaint [ECF No. 1-1] ("Plaintiffs'  
25 Complaint"), the Points and Authorities below, the files and records in this matter, Defendant  
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Case No.: 2:14-CV-01601-MJP

Davenport & Hasson, LLP  
Attorneys at Law  
12707 NE. Halsey Street  
Portland, OR 97230  
Telephone No. (503) 255-5352  
Facsimile No. (503) 255-6124

State Farm's Motion to Dismiss [ECF No. 9], and *FRCP 12(b)(6)* and *FRCP (f)* which are fully incorporated by this reference.

## POINTS AND AUTHORITIES

## **1. JURISDICTION**

The court has jurisdiction based on diversity as noted in the removal documents [ECF No. 1].

## **2. STATEMENT OF FACTS.**

SSB joins in State Farm's Statement of Facts [ECF No. 9 §§ II] for purposes of this Motion.

### **3. LEGAL STANDARD**

A motion to dismiss for failure to state a claim pursuant to *FRCP 12(b) (6)* tests the legal sufficiency of the claims in the Plaintiffs' Complaint. The review is limited to the Complaint, and all allegations of material fact are taken as true and viewed in the light most favorable to the non-moving party. *Cassettari v. Nevada County, Cal.*, 824 F.2d 735, 737 (9th Cir.1987).

“To survive a motion to dismiss, a Complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’ A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 US 662, 678, 129 S. Ct. 1937, 1949, 173 L.Ed.2d 868, 884 (2009).

A Plaintiffs' factual allegations must raise a right to relief "above the speculative level." See *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 1964-65 (2007); 5 C. Wright and A. Miller, *Federal Practice and Procedure* § 1216, pp. 235-236 (3d ed. 2004) ("The pleading must contain something more...than...a statement of facts that merely creates a suspicion of a legally cognizable right of action").

It is a Plaintiffs' obligation to provide the "grounds" of his entitlement to relief which requires more than labels and conclusions. *Id.*

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Portland, OR 97230  
Telephone No. (503) 255-5352  
Facsimile No. (503) 255-6124

1       A Complaint does not suffice “if it offers naked assertions devoid of further factual  
2 enhancement.” *Ashcroft v. Iqbal*, 129 S. Ct. at 1949 “Where a Complaint pleads facts that are  
3 ‘merely consistent with a defendant’s liability’, it ‘stops short of the line between possibility and  
4 plausibility of entitlement to relief.’ It demands more than an unadorned, the defendant  
5 unlawfully harmed me accusation.” *Id.*

6       **4. ARGUMENT.**

7       SSB incorporates the arguments made by State Farm. [ECF No. 9] as follows:

8       **A. Plaintiffs’ WCPA Claim against SSB Fails because the WCPA cannot be applied  
9 extraterritorially to Plaintiffs’ Claims.**

10      SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (A)  
11 (2)].

12      **B. Plaintiffs’ Unjust Enrichment Claim against SSB Fails because Plaintiffs cannot  
13 plead that she conferred any benefit on SSB.**

14      SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (B)].

15      **C. Plaintiffs’ Requests for Declaratory and Injunctive Relief should be Dismissed  
16 because Plaintiffs have pleaded an Adequate Remedy at Law in the Form of  
Damages.**

17      SSB incorporates the arguments made by State Farm on this topic except that SSB does  
18 not concede any damages to Plaintiffs under the WCPA. SSB only acknowledges that Plaintiffs  
19 have pleaded an adequate remedy at law in the form of damages. [ECF No. 9 §§ IV (C)].

20      **D. Motion to Strike Plaintiffs’ Class Action Allegations.**

21      SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (D)].

22      **(1) Plaintiff Lacks Standing to Represent the Putative Class.**

23      SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (D)  
24 (1)].

25      **(2) Plaintiff’s Claims are not Typical of the Putative Class.**

26      SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (D)

1 (2)].

2       **(3) Plaintiffs' Proposed Nationwide Class Action would be Unmanageable.**

3       SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (D)  
4 (3)].

5       **5. CONCLUSION**

6       For the reasons set forth in State Farm's Motion, this Court should dismiss the  
7 Complaint. Further, to the extent that any of the claims survive, the Court should strike the class  
8 action allegations in the Complaint.

9       Dated: October 23, 2014.

10      s/ Jeffrey I. Hasson

11      Jeffrey I. Hasson, WSBA#23741  
12      Davenport & Hasson, LLP  
13      Phone: (503) 255-5352  
14      Attorney for SSB

## CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Michael L. Murphy and James L. Kauffman Bailey & Glasser, LLP 910 17th Street NW, Suite 800 Washington ,DC 20006	Joseph D. Hampton and Daniel L. Syhre Betts Patterson Mines 701 Pike St. #1400 Seattle,, WA 98101
<i>Attorneys for Plaintiffs</i>	Thomas J. Frederick and Neil M. Murphy Winston & Strawn LLP 35 W Wacker Drive Chicago IL 60601 9703

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: \_\_\_\_.

s/ Jeffrey I. Hasson  
Jeffrey I. Hasson, WSBA#23741  
Attorney for SSB  
Davenport & Hasson, LLP  
12707 NE Halsey St.  
Portland, OR 97230  
Phone: (503) 255-5352  
Facsimile: (503) 255-6124  
E-Mail: [hasson@dhlaw.biz](mailto:hasson@dhlaw.biz)